

Remarks

In the Office Action of February 25, 2005, the Examiner issued a final office action, affirming the restriction requirement set forth in the previous office action and rejecting all the claims (except claim 17) claims under 35 U.S.C. § 103. over U.S. Patent No. 5,331,003 to O'Doherty ("O'Doherty"), U.S. Patent No. 6,034,116 to Assmann et al. ("Assmann") and U.S. Patent No. 3,271,249 to Clegg et al. ("Clegg"). The Examiner specifically noted that, despite applicant's argument to the contrary, Assmann showed the formulation of the substituted benzimidazol of the claimed invention. The Examiner did note, however, that the substituted benzimidazol of claim 16 would be allowable if combined with maduramicin of claim 17.

The present amendment is submitted after final rejection under 37 C.F.R. § 1.116. The amendments to the specification and abstract were previously presented, but apparently were not entered. These amendments are now submitted in conformity with the Sample Format for Revised Amendment Practice found on the USPTO website. Claim 17 has been rewritten as independent claim 18. The purpose of these amendments is to put the specification and claims in better condition for allowance and, if appropriate, appeal.

Application Number 10/613,818
Amendment Dated: June 1, 2005
Reply to Office Action of February 25, 2005

Applicant's position on appeal is that the claimed invention, limited to the special orientation of the ring structures, provides a synergistic and surprising result based on the attached table and that the cited art is not enabling for the claimed structure.

The attached table shows that the claimed invention (Example 1 from Table 1 of the present application) is uniformly better at total efficacy than the cited art (Example 74, taken from Table 5 of Assmann). This surprising result makes the claimed invention surprisingly superior to the cited art.

For the foregoing reasons, entry of the amendments is respectfully solicited.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "R. S. Bullitt", with a stylized flourish at the end.

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Comparison of Selected Results from Table 5 of Assmann and Table 1 of Application												
Treatment			Mortality		Weight % non inf. Control	Dropping scores	Lesion scores	Oocyst in % of inf. Control				Total efficacy
Monensin Amount	Example	Amount (ppm)	%	n				Ac.	Max.	Ten.	Tot.	
0	Ex 74	5	0	3	59	6	6	>100	40	>100	80	4.3
0	Ex 74	10	33.30%	1	80	0	4.5	0.7	3	2	1.9	75
0	Ex 1	7.5	0	3	76	6	5.3	3	0	1	1.3	65
0	Ex 1	10	0	3	84	6	3.3	0	0	1	0	75
25	Ex 74	5	0	3	83	0	5.3	8	9	15	11	58
25	Ex 74	10	0	3	80	4	4.3	1	0	0.9	0.6	69
25	Ex 1	7.5	0	3	93	6	0	0	0	2	0.6	88
25	Ex 1	10	33.30%	3	95	3	0.5	0	0	0	0	100
50	Ex 74	5	0	3	90	0	2.3	0.08	0	0.13	0.07	98
50	Ex 74	10	33.30%	3	98	0	0.5	0.7	0	0.05	0.25	100
50	Ex 1	7.5	0	3	100	0	1.7	0	0	0	0	100
50	Ex 1	10	0	3	95	0	0.7	0	0	0	0	100
100	Ex 74	5	0	3	89	0	1.3	1	0.7	4	1.9	85
100	Ex 74	10*	0	3	87	0	0.7	0	0	0.02	0.01	87
100	Ex 1	7.5	33.30%	3	114	0	0	0	0	0	0	100
100	Ex 1	10	0	3	99	0	0	0	0	0	0	100

* Note typo in Assmann -- Table 5 lists this value as 5